



State of Utah
Department of Natural Resources
Division of Oil, Gas and Mining

Coal Regulatory Program Directive

Directive Number:
Adm -001

Effective Date:
July 1, 1997

Supersedes:
Permit Renewals Directive
Dated June 7, 1995

Subject: **Permit Renewal**

Approved: _____
James W. Carter, Director, Division of Oil, Gas, and Mining

On: _____

DISCLAIMER

“This non-binding directive is intended for internal direction for the Utah Coal Regulatory Program to clarify the implementation of the Utah Coal Rules. It neither confers rights nor imposes obligations on the Division or any other party. In the case where a conflict is perceived to exist between this directive and the Utah Coal Rules, the rules prevail.”

ABSTRACT

This document provides directions to persons involved in the permit renewal process, and clarifies the manner in which a permit, with a right of successive renewal, will be evaluated by Division staff.

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1. Purpose

Establish of a review policy for permit renewals
under Utah Admin.. R645-303-203.

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2. Regulatory Basis

R645-303-230; Permit Renewals

303-231. A valid permit, issued pursuant to the state program, will carry with it the right of successive renewal, within the approved boundaries of the existing permit, upon expiration of the term of the permit.

232. Application Requirements and Procedures.

232.100. An application for renewal of a permit will be filed with the Division at least 120 days before expiration of the existing permit term.

232.200. An application for renewal of a permit will be in the form required by the Division and will include at a minimum:

232.220. Evidence that a liability insurance policy or adequate self-insurance under R645-301-800 will be provided by the applicant for the proposed period of renewal;

232.230. Evidence that the performance bond in effect for the operation will continue in full force and effect for any renewal requested, as well as any additional bond required by the Division pursuant to R645-301-800;

232.240. A copy of the proposed newspaper notice and proof of publication of same, as required by R645-300-121.100; and

232.250. Additional, revised, or updated information required by the Division.

232.300. Applications for renewal will be subject to the requirements of public notification and public participation contained in R645-300-120 and R645-300-152.

232.400. If an application for renewal includes any proposed revisions to the permit, such revisions will be identified and subject to the requirements of R645-303-202.

232.500. Irrespective of any other R645 rule requirements for permitting coal mining and reclamation operations, a permittee may renew a permit for the purpose of reclamation only if solely reclamation activities remain to be done and no coal will be extracted, processed, or handled. Obligations established under a permit will continue regardless of whether the authorization to extract,

process, or handle coal has expired, or has been terminated, revoked, or suspended.

233. Approval Process.

233.100. **Criteria for Approval.** The Division will approve a complete and accurate application for permit renewal unless it finds, in writing, that:

233.110. The terms and conditions of the existing permit are not being satisfactorily met;

233.120. The present coal mining and reclamation operations are not in compliance with the environmental protection standards of the state program;

233.130. The requested renewal substantially jeopardizes the operator's continuing ability to comply with the state program on existing permit areas;

233.140. The operator has not provided evidence of having liability insurance or self-insurance as required in R645-301-890;

233.150. The operator has not provided evidence that any performance bond required to be in effect for the operation will continue in full force and effect for the proposed period of renewal, as well as any additional bond the Division might require pursuant to R645-301-800; or

233.160. Additional, revised or updated information required by the Division under R645-303-232.250 has not been provided by the applicant.

233.200. **Burden of Proof.** In the determination of whether to approve or deny a renewal of a permit, the burden of proof will be on the opponents of renewal.

233.300. **Alluvial Valley Floor Variance.** If the coal mining and reclamation operation authorized by the original permit was not subject to the standards contained in sections 40-10-11(2)(e)(I) and (ii) of the Act and R645-302-320, because the permittee complied with the exceptions in the provision to section 40-10-11-(2)(e)(ii) of the Act, the portion of the application for renewal of the permit that addresses new land areas previously identified in the reclamation plan for the original permit will not be subject to the standards contained in sections 40-10-11-(2)(e)(I) and (ii) of the Act and R645-302-320.

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234. **Renewed Term.** Any permit renewal will be for a term not to exceed the period of the original permit established under R645-300-150.

235. **Notice of Decision.** The Division will send copies of its decision to the applicant, to each person who filed comments or objections on the permit renewal, to each party to any informal conference held on the permit renewal, and to the Office.

236. **Administrative and Judicial Review.** Any person having an interest which is or may be adversely affected by the decision of the Division will have the right to administrative and judicial review set forth in R645-300-200.

Federal Counterparts: 30 CFR 774.15

3. Definitions

“Application” means the documents and other information filed with the Division under the R645 Rules for the issuance of permits; permit changes; permit renewals; and transfer, assignments, or sale of permit rights for coal mining and reclamation operations or, where required, for coal exploration.

“Application for permit renewal” means, for the purposes of the directive, 1) the approved mining and reclamation plan (“Plan”) filed with the Division including all approved permit changes incorporated subsequent to the most recent permit approval or renewal date, and 2) the materials required by R645-303-232.220, 230, 240, and 250.

“Complete and accurate application” means an application for permit approval or approval for coal exploration, where required, which the Division determines to contain all information required under the Act, the R645 Rules, and the State Program that is necessary to make a decision on permit issuance.

“Permit” means a permit to conduct coal mining and reclamation operations issued by the Division pursuant to the State Program. For purposes of the federal lands program, permit means a permit issued by the Division pursuant to the cooperative agreement with the Secretary.

“Permit Change” means any coal mining and reclamation operations not previously approved by the

Division in the Permit or in any previously-approved permit change under R645-303-220.

“Renewal of a Permit” means, for the purposes of R645-302-300, a decision by the Division to extend the time by which the permittee may complete mining within the boundaries of the original permit.

4. Policy

A. Each permit issued pursuant to the state program carries with it the right of successive renewal, within the approved boundaries of the existing permit. To initiate a renewal, the permittee must file an application for renewal with the Division at least 120 days before expiration of the existing permit which will consist of 1) the approved mining and reclamation plan, 2) evidence that a liability insurance policy will be provided for the proposed period of renewal, 3) evidence that an adequate performance bond will continue in full force and effect for any renewal requested, 4) a copy of the proposed newspaper notice and proof of publication of same and 5) any other information specifically required or allowed by the Division. This may include changes to the plan required by rule changes or other regulatory requirements. Other information that might be allowed in the renewal application would be a 5-year mining sequence plan or a schedule for contemporaneous reclamation for the 5-year permit term. (See attached Exhibits #1 and #2 for a more detailed listing of requirements)

The successive renewal is based on the fact that the terms and conditions of the existing permit are being satisfactorily met. It is not a forum for making changes or modifying the plan for the next permit term. Permit changes are best handled outside the realm of the renewal and should be done according to the requirements of R645-303-220. To avoid contradiction permit submissions and duplicative permit review by the Division during permit renewal unless the Division specifically requires updated information or the applicant specifically obtains approval to submit modified plans during the renewal process.

B. Permit changes requested by the permittee and not approved at the time of application for permit renewal will not be considered as part of the permit renewal process. After approval of the permit change and after the conclusion of the permit renewal process these permit changes will be incorporated into the permit. Permittee's seeking renewal will be advised to not incorporate unapproved changes into the application for which renewal is being sought.

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C. This directive recognizes that the status of a permit is dynamic. Any permit changes ordered by the Division that have not been completed at the time the application for permit renewal is submitted, and any unabated notices of violation which require a permit change shall be presented in tabular form by the Division prior to consideration of successive permit renewal. This table shall include the schedule for compliance mandated by the Division. Satisfaction of this schedule will constitute, in part, a basis for an affirmative finding as required at R645-303-233.110. If narrative support for a successive renewal is required based on the status of any outstanding Division order or unabated notice of violation, the Compliance Supervisor will be responsible for the operation of the narrative.

D. A permittee may renew a permit for the purpose of reclamation only if solely reclamation activities remain to be done and no coal will be extracted, processed, or handled. For reclamation only permits, the permittee must submit the bond and liability insurance required at R645-303-232.220 and 232.230, and indicate in the application that the renewal is for reclamation only. Obligations established under a permit will continue regardless of whether the authorization to extract, process, or handle coal has expired, or has been terminated, revoked, or suspended.

E. Upon the Division's determination that the renewal application is administratively complete, the application will make it available for the public to inspect and copy by filing a full copy of the application with the recorder at the county courthouse. The Division will also provide notice to local state and federal agencies indication the applicants intention to renew the permit.

F. Within 15 days prior to renewal of the permit, the Division will query the OSM AVS system to determine if a permit block exists. For purposes of this directive an AVS response recommending issuance or conditional issuance shall be considered supportive of a successive renewal.

G. A Division decision with respect to the proposed renewal may be issued anytime after the public participation requirements have been completed but must be issued prior to the expiration date of the permit for which renewal is being sought.

5. Procedure

A. For complete and accurate applications as defined in section three of this directive:

(1) the permit supervisor will ensure that the requirements of R645-303-232.100 through 232.250 have been met.

(2) the permit coordinator will ensure that public and governmental participation as required by R645-300-121 has been provided for.

B. At the conclusion of the public comment period:

(1) if a written request for an informal conference has been received by the Division, the Permit Supervisor will notify the Division Director of the need to hold an informal conference under R645-300-123.

(2) the Permit Supervisor will prepare written Findings addressing the requirements of; R645-303-232.100 through 322.300, and if appropriate, R645-300-131.100 through 133.740. Timely comments or objections to the permit renewal which have been received by the Division, will be considered in the decision to approve or disapprove the renewal.

C. The Division will send notice of its decision as required by R645-303-235 to the applicant, to each person who filed comments or objections to the renewal, and to each party to any informal conference held on the renewal.

(1) If the application is approved, the permit will be renewed for a term not to exceed the period of the original permit.

(2) If the application is disapproved, specific reasons will be forth set in the notice of decision.

6. Delegated Responsibilities

A. Requirements to make permit changes or provide revised or updated plans during renewal: Division Director

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B. Formation of permit review team and establishment of review schedule: Permit Supervisor

C. Tabular presentation of Division Orders in process and unabated notices of violation at the time of successive renewal, and preparation of supporting narrative, if required: Compliance Supervisor

D. Public and governmental participation and notification: Permit Coordinator

7. Reporting Requirements

A. Informal conference notice as discussed at 5(B)(1) above.

B. Findings discussed at 5(B)(2) above.

8. References

See Section 1, above.

9. Effect on Other Documents

Supersedes Permit Renewals directive dated June 7, 1995.

10. Division Contact/Work Group

Mary Ann Wright, Daron R. Haddock, Pam Grubaugh-Littig, Joseph C. Helfrich

11. Key Words

Application for Permit Renewal, Complete and Accurate Application, Permit Renewals, Coal Permit Renewals, Successive Permit Renewal.

12. Appendices

Exhibit 1-- List of Permit Renewal Requirements
Exhibit 2-- Sample Public Notice

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Exhibit 1

List of Permit Renewal Requirements

- 1) Approved mining and reclamation Plan (should already be on file with the Division).
- 2) Certificate of liability insurance showing adequate coverage.
- 3) Evidence that the reclamation bond will continue in full force and effect for the renewal (bond should be escalated through the renewal period).
- 4) A copy of the proposed newspaper notice (Once the notice is published the affidavit of publication must be submitted as part of the application).
- 5) If not already detailed in the existing MRP, a 5-year mining sequence plan.
- 6) If not already detailed in the existing MRP, a schedule for contemporaneous reclamation to be accomplished during the permit term.
- 7) If not already detailed in the existing MRP, a description of any new lease areas needed within the permit term for which the permittee anticipates submitting an application.
- 8) Any changes to the plan required by changes in the rules or regulatory requirements or by Division Order.
- 9) Any changes to the ownership, control, right-of-entry, or compliance information that has not been made part of the MRP.

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Exhibit 2

Sample Public Notice (Notice must be published at least one week for 4 consecutive weeks in a newspaper of general circulation in the locality of the coal mining and reclamation operation.)

Notice is hereby given as required by the Utah Coal Mining Rules at R645-300-121 that ABC Coal Company, 1594 West North Temple, Salt Lake City, Utah 84114 has filed and application for a five year renewal of coal mining permit No. ACT/000/000. Approval of this application will allow ABC Coal Company to continue to operate the XYZ Coal Mine under the provisions of the Utah Coal Mining and Reclamation Act and the Utah R645 Coal Mining Rules.

The permit area is compromised of 1001 acres and is located in Carbon County, Utah. It includes State, Fee, and Federal Land some of which fall within the boundary of the Manti-LaSal National Forest. The surface facilities area is located X miles southwest of Price, Utah in Coal Canyon just off Highway 6. The entire property is located within land shown on USGS 7.5-minute "Coal Mountain" Quadrangle map and is described as follows:

Township XX South, Range X East, SLBM

Section 15: all
Section 16: all
Section 17: E1/2
Section 20: NE1/4NE1/4
Section 21: N1/2

"Map showing the Permit Area"

(Suggested, but not required if the written description is accurate enough to locate the site.)

Copies of the permit renewal application will be available for inspection at the following locations: Utah Division of Oil, Gas, and Mining, 1594 West North Temple, Suite 1210, Salt Lake City, Utah 84114 and at the Carbon County Courthouse, Price, Utah.

Written comments, objections, or requests for an informal conference regarding this application must be submitted within 30 days of the last publication date of this notice, to the Utah Division of Oil, Gas, and Mining, Attn: Coal Regulatory Program, 1594 West North Temple, Suite 1210, Salt Lake City, Utah 84114-5801.